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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/758,177      | 01/15/2004  | Craig Negoescu       | OWND002US0          | 4851             |

58417 7590 06/16/2006

HEINZ GREETHER PC  
5810 TRADE CENTER DR.  
SUITE 300  
AUSTIN, TX 78744

EXAMINER

FLETCHER, MARLON T

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2837

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/758,177             | NEGOESCU ET AL.     |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Marlon T. Fletcher     | 2837                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 9 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites a human interface. There is no human interface. There is an interface that is manipulable by a human.

Claim 16 recites "... an industry standard electronic rack." The claim is indefinite an industry standard rack is not defined. The module can simply mounted in a rack mount.

3. Regarding claim 9, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5, 7-9, 11, and 15, are rejected under 35 U.S.C. 102(b) as being anticipated by Monte et al. (5,115,705).

Monte et al. disclose an electronic musical performance instrument (figure 1), comprising: a musical instrument input interface manipulatable by a human operator (figure 2) integral with; electronic circuitry for monitoring the input keys for input by the human operator (figures 22 and 23); and integral with a central processing unit running an operating system capable of running alternative sound synthesis software packages to generate sound signals from the input from the human to the musical instrument interface (abstract; column 16, lines 36-52; and column 19, lines 40-50).  
operator's manipulation input

Monte et al. disclose the musical instrument , wherein the central processing unit runs a computer operating system (column 16, lines 28-32).

Monte et al. disclose the musical instrument, wherein the boot code for the central processing unit is stored in nonvolatile solid state memory (column 20, lines 10-60).

Monte et al. disclose the musical instrument; the nonvolatile solid state memory is a RAM drive (column 20, lines 10-60).

Monte et al. disclose the musical instrument, wherein the interface includes at least two interface surfaces and at least one of the interface surfaces is modular and can be removed or swapped with another modular interface surface (figure 8, and column 5, lines 10-12).

Monte et al. disclose the musical instrument, wherein the modular surface includes a display (19).

Monte et al. disclose the musical instrument, wherein the modular surface includes mechanical user interfaces (figure 8).

Monte et al. disclose the musical instrument wherein one of the modular surfaces includes an array of keys (figures 8 and 9; and column 5, lines 10-12).

Monte et al. disclose the musical instrument, which includes a removable input and output module (figure 8).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4, 10, and 12-14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Monte et al.

Monte et al. is discussed above. Monte et al. do not disclose a flash memory, nor joystick.

However, Official Notice is taken with respect to it being known in the art to use flash memories, joysticks, sliders, and knobs, in electronic musical instruments.

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the well known teachings with Monte et al., because the teachings allow more types of controls to be used with the apparatus.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monte et al. in view of Sitrick et al.(2003/0100965).

Monte et al. are discussed above. Monte et al. do not disclose a UPS.

However, Sitrick et al. disclose a UPS, which supplies power for the operation of the instrument when main power is lost.

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Sitrick et al. with Monte et al., because the teachings provide constant power to the instrument.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monte et al. in view of Gruenbaum.

Monte et al. are discussed above. Monte et al. do not disclose electronic racks.

However, Official Notice taken with respect to Rack mounts being well known for mounting electronics including electronic musical instruments. Gruenbaum discloses a musical module that can be mounted on a rack mount (Page 5, paragraph 61).


It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Gruenbaum with the teachings of Monte et al., because it provides a stationary, stable position for an electronic device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T. Fletcher whose telephone number is 571-272-2063. The examiner can normally be reached on M-w, F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MTF  
06/09/2006



MARLON T. FLETCHER  
PRIMARY EXAMINER